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Attorneys for Defendant Meta Platforms, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

META PLATFORMS, INC., a Delaware
Corporation headquartered in California,

Defendant.

Case No. 3:20-cv-08570-JD

**DECLARATION OF DECLARATION OF
SONAL N. MEHTA IN COMPLIANCE
WITH THE COURT'S MAY 23, 2022
ORDER**

Judge: Hon. James Donato

1 I, Sonal N. Mehta, declare as follows:

2 1. I am a Partner at Wilmer Cutler Pickering Hale and Dorr LLP, lead counsel for
3 Meta Platforms, Inc. in the above-captioned case. I submit this declaration consistent with the
4 Court's May 23, 2022 Order. Dkt. No. 301. The contents of this declaration are based on my
5 personal knowledge.

6 2. On Friday, May 27, 2022, my partner David Gringer and lead counsel for the
7 Advertiser Plaintiffs, Yavar Bathaee of Bathaee Dunne LLP, and Kristen Anderson of Scott +
8 Scott LLP, met and conferred in person at WilmerHale's office in New York, New York, to
9 resolve the disputes raised in Dkt. Nos. 281, 282, 294, 296, 297, and 298 in accordance with the
10 Court's Order at Dkt. 301. Although at least one lead counsel for the User Plaintiffs works and
11 resides in the Bay Area, I was informed that no lead counsel for the Advertiser Plaintiffs or the
12 User Plaintiffs would be within 100 hundred miles of me for the meet and confer. Accordingly,
13 lead counsel for the User Plaintiffs, Stephen A. Swedlow of Quinn Emanuel Urquhart & Sullivan
14 LLP and Shana A. Scarlett of Hagens Berman Sobol Shapiro LLP, and I participated via video
15 conference.

16 3. Meta and Advertiser Plaintiffs reached a resolution on Dkt. Nos. 281 and 296.

17 4. As to Dkt. 294, the parties reached an agreement on the number and identity of
18 custodians. The parties have discussed search strings separately because Users have so
19 demanded.

20 5. During the meet and confer, Meta and the User Plaintiffs discussed the dispute at
21 Dkt. Nos. 282 and 297 regarding User Plaintiffs' request to be copied on all written
22 correspondence Meta has with nonparty subpoena recipients about subpoena compliance, to be
23 provided with any responses and objections served by nonparty subpoena recipients, and to be
24 informed of any scheduled meet and confers with nonparties.

25 6. In an effort to resolve the dispute during the meet and confer, based on User
26 Plaintiffs' representation that they wished to be promptly notified of subpoena modifications by
27 Meta, Meta proposed that each party produce to the other all correspondence with nonparties
28 relating to Rule 45 subpoenas issued in this case—regardless of which party issued a nonparty

1 subpoena—within five business days of sending or receiving the correspondence. Meta also
2 proposed that each party provide a nonparty’s objections and responses within five business days
3 of receipt, and a nonparty’s document production within ten business days of receipt. Meta
4 proposed that the parties produce any objections and responses already served by no later than
5 June 6, 2022. For any correspondence that related to subpoenas issued in multiple cases, Meta
6 proposed that the parties may redact portions of the correspondence that do not relate to the
7 subpoena issued in this case.

8 7. Although User Plaintiffs had suggested they would be open to a compromise
9 along those lines (except that they were seeking to receive correspondence more quickly than
10 Meta proposed), on June 6, 2022, counsel for User Plaintiffs rejected Meta’s proposal, and
11 reverted to seeking the relief they originally requested in Dkt. 282. User Plaintiffs have made no
12 counterproposals to Meta. Meta and the User Plaintiffs are at an impasse regarding the dispute at
13 Dkt. Nos. 282 and 297 and Meta requests that the Court decide the issues on the briefs filed at
14 Dkt. Nos. 282 and 297.

15 8. Also during the May 27, 2022 meet and confer, Meta and the User Plaintiffs
16 discussed the dispute at Dkt. No. 298 regarding User Plaintiffs’ request for production (RFP) No.
17 3, seeking documents that Meta was compelled to produce relating to Meta’s app developer
18 investigation (ADI).

19 9. Meta explained that it was maintaining its position that ADI documents are
20 protected attorney work product, as the Massachusetts Supreme Judicial Court and the D.C.
21 Superior Court have both found, and that it could not voluntarily produce the documents sought
22 by RFP No. 3 without risking waiver. Meta also explained that, in its view, not all ADI
23 documents were relevant to User Plaintiffs’ allegations. Meta proposed that User Plaintiffs serve
24 interrogatories seeking relevant facts from the ADI, which would avoid the attorney work
25 product issue. User Plaintiffs refused to engage in any discussion of the scope of production.

26 10. Meta and the User Plaintiffs are at an impasse regarding the dispute at Dkt. No.
27 298. Because the Court directed the parties to engage in a lead counsel meet and confer before
28 Meta filed a response to User Plaintiffs’ letter brief, Meta requests the opportunity to file a

1 responsive letter brief in accordance with your Honor's Standing Order on Civil Discovery.
2 Users "have not taken a position" as to whether Meta may file a responsive letter brief. When
3 Meta told Users that it would seek the opportunity to file a letter brief responsive to Dkt. No.
4 298, Users would not provide a response and only "simply note[d] that Judge Donato has ordered
5 'no further responses to the letter briefs.'"

6 I declare that the foregoing is true and correct under penalty of perjury.

7 Executed on this 17th day of June, 2022, in Los Altos Hills, California.

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10 By: /s/ Sonal N. Mehta
11 Sonal N. Mehta
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SIGNATURE ATTESTATION

I am the ECF User whose identification and password are being used to file the foregoing.
Pursuant to Civil Local Rule 5-1(h)(3), I hereby attest that the other signatories have concurred in
this filing.

Dated: June 17, 2022

By: /s/ Sonal N. Mehta

Sonal N. Mehta